

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

MERVIN B. STURGEON
on behalf of himself and others
similarly situated,

Plaintiff ,

vs

Civil Action No. 5:20-CV-192
Judge Bailey

CITY MANAGER ROBERT HERRON,
individually and in his official capacity,
THE CITY OF WHEELING,

Defendants.

**DEFENDANT, CITY MANAGER ROBERT HERRON
AND THE CITY OF WHEELING CASE STATUS UPDATE**

Being pertinent to the case status update, the Court ordered the City of Wheeling not to conduct any cleaning of homeless encampments until certain procedural measures were met as follows:

- A. The City of Wheeling shall post notices of its intended action at any encampment to be removed in such places as are most likely to be seen and read by the inhabitants thereof;
- B. Such notices must be posted at least two (2) weeks prior to the intended action;
- C. The City of Wheeling must provide at least two (2) weeks written notice to the Greater Wheeling Coalition for the Homeless, Project Hope and any other group or agency which requests to be included in such notifications; and
- D. On the day upon which crews show up to dismantle an encampment, the crews must, upon request, give any inhabitants present a period of two hours in which to remove their personal property.

Additionally the Court stated that due to the short period remaining between this day and the intended day of removal, the City was ordered to select a new date and provide proper notice as described above.

All of the above requirements were met and/or exceeded by the City of Wheeling. The Court's Order, which noted the above procedural requirements, was entered on September 16, 2020. On September 17, 2020 the City, through its Police Department, in coordination with the WV Department of Transportation being the property owner, posted the NOTICE which is attached and incorporated herein. The Notice was also hand delivered to the specific agencies, being the Greater

Wheeling Coalition for the Homeless and Project Hope, cited in the Order and as requested by counsel for the Plaintiff was also sent to the ACLU-WV, two persons with Our Future WV and two persons with the House of Hagar in Wheeling, WV. The Notice provided the Court required two (2) weeks notice being Friday, October 2, 2020 at 1:00 p.m. However the cleanup and removal did not occur until Tuesday, October 6, 2020 and Wednesday, October 7, 2020, which provided additional time than that required by the Court.

Upon arrival for the cleanup on Tuesday, October 6th, the camps were empty and on Wednesday, October 7th one person was present who did not have any belongings and left on his own accord. The two police reports for Tuesday the 6th and Wednesday the 7th of October regarding the cleaning of the camps are attached and incorporated herein. The WV DOT enlisted the services of Panhandle Cleaning, Inc. to remove belongings and clean the camp as there was abundant human excreta, hypodermic needles, etc. The clean-up took two days by the professionals from Panhandle Cleaning, who treated the clean up of the encampment(s) as a hazardous clean up situation. The WV DOT posted their property with "No Trespassing Signs."

Since the removal and clean up of the encampments on WV DOT property, Chief of the Wheeling Police Department has reported that calls for service and/or Police Department incident reports have dramatically reduced. The City of Wheeling at this time does not foresee any incumbent encampment removals or clean ups. However, if said removals are undertaken, the City would follow this same practice as outlined and ORDERED by the Court.

Respectfully submitted,



Rosemary Humway-Warmuth
City Solicitor
W.Va. Bar #6993
City of Wheeling
Office of the City Solicitor
1500 Chapline Street
Wheeling, WV 26003
(304) 234-3736

NOTICE

TO ALL PERSONS OCCUPYING THIS PROPERTY

The City of Wheeling is giving you notice that the Property Owner will close/dismantle and clean this site on Friday, October 2, 2020. All personal property should be removed from this site by 1:00 p.m.

All personal property remaining on this site is subject to removal by the Property Owner.

On Friday, October 2, 2020 at 1:00 p.m., or thereafter, when crews show up to close/dismantle the encampment, any inhabitants present may request from the crews to have an additional period of two (2) hours to remove their personal belongings.

No persons will be allowed to remain on, or return to this site after the crews begin the closing/dismantling and cleaning of the site on October 2, 2020.

Any persons needing assistance with housing may contact the Greater Wheeling Coalition for the Homeless at 304-232-6105, Project Hope at 304-234-3682, or Youth Service Systems (YSS) at 304-233-9627.

Any persons having any questions regarding this NOTICE may call Philip Stahl, Public Information Officer for the Wheeling Police Department at 304-234-3732.



Wheeling Police Department

1500 Chapline Street Wheeling, WV 26003

Phone #: 304-234-3708

Email:

Call Summary Report

<u>Call Details</u>				Date Printed 10/14/2020 11:27
Call Number:	2020-00046302	Dispatch Number: 2020-00046302	How Received: 911	
Call Type:	DELIVER MESSAGE			
Custom Field				
Assigned Officer:	SANDERS, JOSHUA PHILLIP			
Reported:	9/17/2020 16:09	Time Dispatched: 9/17/2020 16:09	Time Arrived: 9/17/2020 16:09	Time Cleared: 9/17/2020 16:10
Occurred From:	9/17/2020 16:09	Occurred To: 9/17/2020 16:10		
Municipality:	WHEELING		Latitude:	
Dispatch Location:	Zone 2 DOWNTOWN (15TH ST WHEELING)		Longitude:	
			Altitude:	
Assigned Officer Signature:	_____			
Approved:	Approving Officer: ,			
Approving Officer Signature:	_____			
<u>Call Notes</u> I along with Officer Hupp, Scott, and Stanley posted a new notice in all of the Homeless camps on DOH property. This third posting was under court order from Federal court giving the homeless individuals until October 2, 2020 to remove themselves and their belongings. This was recorded on body cameras including body cam 1 worn by me. During this time period I also delivered a letter and the same notice to YSS and the Homeless coalition.				

Wheeling Police Department

1500 Chapline Street Wheeling, WV 26003

Phone #: 304-234-3708

Email:

Call Summary Report**Call Details**Date Printed
10/14/2020 11:23

Call Number:	2020-00050381	Dispatch Number:	2020-00050381	How Received:	911
Call Type:	MISCELLANEOUS				
Custom Field					
Assigned Officer:	SANDERS, JOSHUA PHILLIP				
Reported:	10/6/2020 10:40	Time Dispatched:	10/6/2020 10:41	Time Arrived:	10/6/2020 11:36
Occurred From:	10/6/2020 10:40	Occurred To:	10/6/2020 11:37	Time Cleared:	10/6/2020 11:37

Municipality:	WHEELING	Latitude:
Dispatch Location:	Zone 2 DOWNTOWN (- 20TH ST / - CHAPLINE ST WHEELING)	Longitude:
		Altitude:

Assigned Officer
Signature: _____

Approved: _____ Approving Officer: ,

Approving Officer
Signature: _____**Call Notes**

Myself and Officer Kuca met with DOH and Panhandle cleaning to walk through the homeless camps under DOH property. At that time the camps being cleaned were empty. While in the area of the north end of the Chapline street bridge to survey the area with DOH officers located a male subject who stated he did not have any belongings at the camp and agreed to leave the area. No other people were located in the camps during this time.

Wheeling Police Department

1500 Chapline Street Wheeling, WV 26003

Phone #: 304-234-3708

Email:

Call Summary Report**Call Details**Date Printed
10/14/2020 11:16

Call Number:	2020-00050543	Dispatch Number:	2020-00050543	How Received:	SELF
Call Type:	MISCELLANEOUS				
Custom Field					
Assigned Officer:	KUCA, KEVIN A				
Reported:	10/7/2020 08:14	Time Dispatched:	10/7/2020 08:16	Time Arrived:	10/7/2020 08:19
Occurred From:	10/7/2020 08:14	Occurred To:	10/7/2020 08:32	Time Cleared:	10/7/2020 08:32

Municipality:	WHEELING
Dispatch Location:	20TH AND CHAPLINE STREET, WHEELING WV 26003 Zone 3 CENTER WHEELING (45 20TH ST, WHEELING WHEELING)

Latitude:
Longitude:
Altitude:

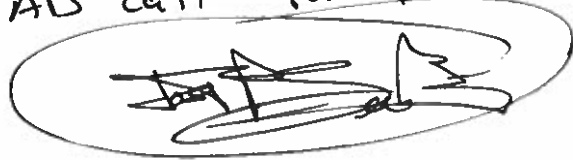
Assigned Officer
Signature: _____

Approved: 10/9/2020 11:03 Approving Officer: BRANTLEY, SEAN M

Approving Officer
Signature: _____**Call Notes**

Met with DOH and Panhandle Cleaning to check for any subjects at the homeless camp prior to them entering and beginning cleanup. No one located, clear. I checked back on this location periodically

I received a call on this day from
Ofc Ruby @ 1259pm stating when DOH was
going to clean under the MKT ST bridge
He encountered a subject who left on his
own Accord and did not have any belongings.
I could not locate a CAD call for this.



CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 23rd day of October, 2020 the foregoing “DEFENDANT, CITY MANAGER ROBERT HERRON AND THE CITY OF WHEELING CASE STATUS UPDATE” was served upon the following counsel of record by depositing a true copy thereof in the United States mail, postage prepaid, in an envelope addressed as follows:

Loree Stark
Legal Director
ACLU of West Virginia
P.O. Box 3952
Charleston, WV 25339-3952

Pat Cassidy
Cassidy, Cogan, Shapell & Voegelin, LC
The First State Capitol
1413 Eoff Street
Wheeling, WV 26003


City of Wheeling, WV
City Solicitor

Rosemary J. Humway-Warmuth
W. Va.. Bar # 6693
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